

# Morgan Lewis

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**Via ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, S.W.  
Washington, DC 20554

Re: WC Docket No. 16-143, WC Docket No. 15-247, WC Docket No. 05-25,  
RM-10593, Notice of Ex Parte Communication

Dear Secretary Dortch,

On October 18, 2016, James Butman, Group President of TDS Telecommunications Corporation (“TDS”), Matthew Loch, Vice President of Sales of TDS, Steve Pitterle, Manager Carrier Relations of TDS Metrocom, Chip Pickering, CEO of INCOMPAS, Angie Kronenberg, Chief Advocate & General Counsel of INCOMPAS, and the undersigned met with Claude Aiken, Legal Advisor to Commissioner Mignon Clyburn.

TDS Metrocom (“TDS CLEC”) and INCOMPAS support a strong wholesale-retail rule, which should result in real price reductions for wholesale Ethernet services without CLECs having to file complaints to obtain rate relief. The Commission needs to act to ensure competitors like TDS CLEC can purchase wholesale Ethernet at just and reasonable rates that permit them to offer competitive options to small and medium-sized businesses (“SMBs”) in second and third tier markets.

INCOMPAS explained that customers of TDS CLEC and similar CLECs enjoy the tailored solutions and innovative products that competitive carriers offer SMBs, especially in smaller and regional markets. Indeed, it was a competitive carrier that introduced Ethernet service.

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Both INCOMPAS and Mr. Butman explained that the exploding demand for higher bandwidth, at reasonable and affordable prices, means that TDS CLEC cannot continue to rely on bonding multiple TDM DS-1s for last mile access to meet the needs of today's SMB customer. Notwithstanding TDS CLEC's high name recognition, stellar reputation with its customers, managed IP service, and high quality Internet service, it is losing almost every bid when customers move to or purchase Ethernet-based service. Without the availability of wholesale Ethernet last mile access priced meaningfully below RBOC retail, TDS CLEC will not be able to continue to offer a competitive choice in the second and third tier markets it serves and customers may lose the service, innovation, and price benefits multiple providers bring to SMB markets.

As explained in its comments and Mr. Butman's and Mr. Loch's previous declarations, TDS CLEC cannot economically extend its network to serve its SMB customers on-net except within very short distances (less than 100 feet) at bandwidths even up to 100 Mbps. Where it is not economical to build, TDS CLEC buys inputs (including UNE loops and switched Ethernet service) from RBOCs to serve its approximately 25,000 customers. When an RBOC sells wholesale Ethernet service to TDS CLEC instead of selling retail to those SMB customers, the RBOC avoids sales and marketing, network design, billing and collection, and repair costs for those TDS CLEC customers. The RBOC incurs fewer costs to provide a greater volume of service to one wholesale customer (TDS CLEC) than thousands of retail customers.

The RBOC retail Ethernet service also often contains required network (*e.g.* transport) and other services (*e.g.*, Internet) than the wholesale service. The network differences are illustrated by the attached diagrams handed out during the meeting. Although the partner carrier's portion of the network facilities is only a part of the whole service, in TDS CLEC's experience, when the RBOC is the partner carrier, the RBOC charges more for TDS CLEC's "piece" of the service than RBOC charges its retail customer for the "whole" end-to-end service.

Reasonably priced wholesale inputs permit retail competition that can discipline retail rates, obviating the need for Commission intervention. TDS CLEC urges the FCC to make clear that certain practices are indicative of unjust and unreasonable wholesale rates, such as:

- An RBOC offers its channel partners commissions on Ethernet services that result in the RBOC receiving less revenue for that retail service than the revenue they would receive for the wholesale Ethernet service which only consists of the last mile segment.
- An RBOC offers a retail Internet (or other data) service over an Ethernet connection at a rate equal to or often less than the wholesale rate it charges a CLEC for a like Ethernet connection.

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- An RBOC offers the same rates to certain retail customers that require a network build/extension as they would if the customer were on net, but requires a wholesale customer to pay higher off-net or special construction charges for that same connection.

TDS CLEC and INCOMPAS look forward to working with the Commission to adopt a strong wholesale-retail rule that enables commercial negotiation of wholesale Ethernet rates.

Respectfully Submitted,

*/s/ Tamar E. Finn*

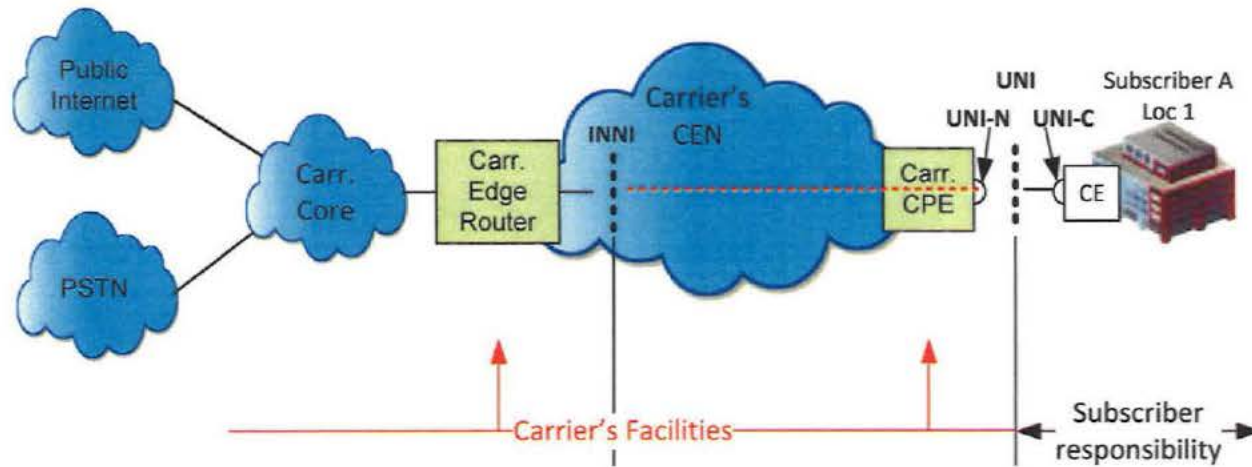
Tamar E. Finn

Counsel for TDS Telecommunications Corporation and TDS Metrocom, LLC

Attachments

cc: (Via E-Mail)  
Claude Aiken

Carrier's Retail VoIP and/or Internet Subscriber served entirely by their Ethernet Access Network:



Key:

CE – Customer Equipment (generic)

CPE – Customer Prem Equipment

INNI – Internal Network-to-Network Interface

UNI – User-to-Network Interface

UNI-C – User-to-Network Interface (Customer side)

UNI-N – User-to-Network Interface (Network side)

